IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CASE NO:C.W.P.No.1461 of 2007(O&M)

DATE OF DECISION: 01.03.2007

M/S TUSRI SECURITY AGENCY

.....PETITIONER
through Mr. ARUN JAIN,
Advocate

VERSUS

GOVERNMENT OF INDIA & OTHERS

.....RESPONDENTS
through Mr. S.C.KAPOOR,
SENIOR ADVOCATE WITH
MR. ASHISH KAPOOR,ADVOCATE,
FOR RESPONDENT NO.3
MS. ANJALI KUKKAR, STANDING COUNSEL
FOR UNION OF INDIA.
MR. AMAN BANSAL, ADVOCATE.

CORAM: HON'BLE MR. JUSTICE VIJENDER JAIN, CHIEF JUTICE
HON'BLE MR. JUSTICE RAJIVE BHALLA.

1. **Whether Reporters of Local Newspapers may be allowed to see the judgment?**

2. **To be referred to the Reporters or not?**

3. **Whether the judgment should be reported in the Digest?**

VIJENDER JAIN, CHIEF JUSTICE (ORAL)

The petitioner has approached this Court for the issuance of a writ in the nature of certiorari/mandamus or such other appropriate writ, order or direction, directing that the action of the Indian Oil Corporation Limited,Chandigarh, in bifurcating the contract awarded to the petitioner firm vide letter No.PSO/DPS/SEC-BTD dated 31.01.2006 and proceeding to award the same to respondent No.4, as illegal, arbitrary, malafide and

violative of Article 14 and 19(1)(g) of the Constitution of India. It is also prayed that a writ in the nature of prohibition be issued restraining the respondent Corporation from giving the work order for the second year to the respondent No.4.

The petitioner, respondent No.4 and others responded to the tender notice issued by the respondent Corporation, to provide security services at Bathinda. As there was a tie between the petitioner and respondent No.4, it was decided to award the work to both the parties for one year each. For the first year, the work was awarded to the petitioner and for the next year i.e. from 01.02.2007 to respondent No.4. It also appears that similar contracts were awarded to the petitioner and respondent No.4 at Rajpura Depot and Chandigarh Depot, in the same manner.

Counsel for the petitioner contends that as the tenders were invited for a period of two years, the respondent has no right in law to split the contractual period between the petitioner and respondent No.4. It is further contended that before contractual period was split between the parties, the petitioner's consent was not taken.

We have heard the learned counsel for the parties and perused the paper book.

From the work order (Annexure R3/1), dated 31.01.2006, placed upon the petitioner, it is clear that the contract was awarded to him for one year i.e. Upto 31.01.2007. Relevant extract of the work order dated 31.01.2006 reads as follows:-

> "We are pleased to place work order for providing security services at our Bathinda Terminal for a period of One Year with effect from 01.02.2006 to 31.01.2007. You shall provide 22 No. unarmed sec. Guard, 05 Armed sec Guards and 01 sec. Serc supervisor for guarding of our Bathinda Terminal round the clock and their deployment will be as per the instructions of STM Bathinda Terminal.
>
> The Contract will be in operation for a operation for a period of one year from the date of commencement. The contract can be terminated by either party by giving one month's notice".

The petitioner accepted the terms and conditions as enumerated in the work order, without any protest or demure. It was only when the period of one year was to expire that the petitioner raised a dispute vide letters dated 14.12.2006, 23.12.2006 etc. The petitioner acceptance of the work order and thereafter proceeding to execute the same, discloses implied consent. Consent may be expressed or implied, inferable from the surrounding circumstances. It would also be necessary to notice here that similar tenders were floated for Chandigarh and Rajpura Depots. In response to these tenders, the rates quoted by the petitioner and respondent No.4 were also the same. For the Chandiagrh Depot, the contract was awarded to respondent No.4 w.e.f. 01.12.2005 to 31.11.2006 and to the petitioner w.e.f. 01.12.2006 to 31.11.2006. The petitioner has taken up this contract, w.e.f. 01.12.2006 after respondents No.4's, one year term expired. The petitioner intentionally concealed this fact while filing the writ petition.

In view of what has been stated above, the petitioner is dis-entitled to any relief. Consequently, the present petition is dismissed.

(VIJENDER JAIN)
CHIEF JUSTICE

March 1, 2007

(RAJIVE BHALLA)
JUDGE